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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,192	07/09/2003	Kevin F. Dudley	10502	9670

27623 7590 07/17/2006

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EXAMINER
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KOCZO JR, MICHAEL

ART UNIT	PAPER NUMBER
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3746

DATE MAILED: 07/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/616,192	<b>Applicant(s)</b> DUDLEY, KEVIN F.	
	<b>Examiner</b> Michael Koczo, Jr.	<b>Art Unit</b> 3746	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 May 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.  
     4a) Of the above claim(s) 5,6 and 11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 7-10 is/are rejected.
- 7) ☒ Claim(s) 3 and 4 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

Applicant's arguments filed on May 22, 2006 have been fully considered but they are not persuasive.

#### ***Claim Rejections - 35 USC § 112***

Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The expression "maximum anticipated time" is vague and indefinite because it could be any length of time. Applicant alleges that "claim 8 defines 'maximum anticipated time' so that one of ordinary skill in the art of its scope is apprised of the scope of claim 8." However, no definition of "maximum anticipated time" is to be found in claim 8.

#### ***Claim Rejections - 35 USC § 102***

Claims 1 and 2 are rejected under 35 U.S.C. 102(a) as being anticipated by Moriwaki et al (JP 2002-277068). Moriwaki et al disclose a compressor for a refrigeration system having a heat regenerative unit (heat storage material 11 or 12) in contact with the compressor housing for absorbing heat from the oil during operation of the compressor, and releasing the heat to the oil when the compressor is stopped.

Applicant is correct in noting that this rejection should originally have been made under 35 USC 102(a). Any inconvenience this may have caused applicant is sincerely regretted.

The affidavit filed on May 22, 2006 under 37 CFR 1.131 has been considered but is ineffective to overcome the Moriwaki reference.

The evidence submitted is insufficient to establish a conception of the invention prior to the effective date of the Moriwaki reference. While conception is the mental part of the inventive act, it must be capable of proof, such as by demonstrative evidence or by a complete disclosure to another. Conception is more than a vague idea of how to solve a problem. The requisite means themselves and their interaction must also be comprehended. See *Mergenthaler v. Scudder*, 1897 C.D. 724, 81 O.G. 1417 (D.C. Cir. 1897).

The essential thing to be shown under 37 CFR 1.131 is priority of invention and this may be done by any satisfactory evidence of the fact. For example, the allegations of fact might be supported by submitting as evidence of one or more of the following: attached sketches, attached blueprints, attached photographs, etc. (see MPEP 715.07). Merely submitting a signature page without any evidence of the idea which is alleged to have been disclosed to the signatories does not fulfill the requirement of 37 CFR 1.131.

Claim 1 is also rejected under 35 U.S.C. 102(b) as being anticipated by Connor (US 3,339,829). Connor discloses a refrigeration compressor having a support member 23 submerged in the oil. This support member is readable as a heat regenerative unit because it inherently absorbs heat from the oil during operation of the compressor, and releases the heat to the oil when the compressor is stopped. Applicant argues that "Connor does not provide any heat transfer properties of support member 23". Any structure has heat transfer properties. Disclosure of such properties is unnecessary because they are inherent. Whether or not the oil is

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maintained at a temperature level sufficient to avoid damage to moving parts of the compressor is dependent on parameters which are beyond the scope of the claim, such as the ambient temperature. Depending on the ambient temperature, the support member of Connor is capable of maintaining a temperature level sufficient to avoid damage to moving parts of the compressor in view of the structural similarity of the claimed structure.

***Claim Rejections - 35 USC § 103***

Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moriwaki et al in view of Wyatt (US 4,982,722). Moriwaki et al disclose the invention substantially as claimed. However, Moriwaki et al do not disclose a phase change material for absorbing and releasing heat energy to the oil. Wyatt discloses the use of a phase change material as a heat storage material for absorbing and releasing heat energy. A phase change material has a greater heat storage capacity as compared to a non phase change material due to heat of fusion. In view of this teaching, it would have been obvious to use a phase change material as the heat storage material of Moriwaki et al.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moriwaki et al in view of Yamashita (US 4,817,704). Yamashita discloses the use of hydrated salt as a phase change material for heat storage. In view of this teaching, it would have been obvious to use hydrated salt as the heat storage material of Moriwaki et al.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Connor in view of Shaw (US 4,181,474). Shaw discloses that it is known to form compressor parts, such as the housing, of aluminum (col. 17, l. 49). Aluminum is often preferred because of its light weight

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and corrosion resistance. In view of this teaching, it would have been obvious to form the support member 23 of Connor of aluminum.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

#### ***Allowable Subject Matter***

Claims 3 and 4 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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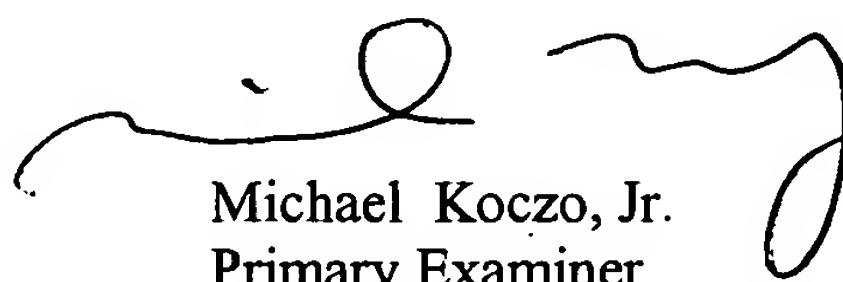
however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry relating to patent applications in general should be directed to the Patent Assistance Center at 1-800-786-9199.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Kocz, Jr. whose telephone number is 571-272-4830. The examiner can normally be reached on M-Th; 7:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy S. Thorpe can be reached at 571-272-4444. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Michael Kocz, Jr.  
Primary Examiner  
Art Unit 3746